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10/616,978	07/11/2003	George S. Pantan JR.	PAN-010	2870

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EXAMINER

CONLEY, FREDRICK C

ART UNIT PAPER NUMBER

3673

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/616,978

Applicant(s)

PANTON, GEORGE S.

Examiner

Fredrick C Conley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or, extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 1-15 and 21-74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/16/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 11-14, 21-26, 29-33, 35-39, and 42-46 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,765,243 to Duncan et al.

Claim 1, Duncan discloses a spine board comprising:

a sealed unitary board structure defining a board structurally adapted to transport a patient and having at least two pairs of hand holds 22, said unitary board structure being hollow;

foam 16 (col. 4 lines 32-36) contained within the entire of said hollow of said unitary board structure, whereby said foam is separated from said the exterior of said unitary board structure.

Claims 2, 22, 36, wherein said unitary board structure comprises a first molded portion 10 and a second molded portion 12 secured to said first molded portion to define said board.

Claims 3, 23, 37, wherein said spine board includes a plurality of hand holds 22 for lifting said patient by emergency personnel.

Claim 4, further including a plurality of slots 21 through said board. With regards to the plurality of slots assisting in the submersion of the board it has been held that a

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recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Claims 5, 24, 38, wherein said pair of hand holds is head end hand holds positioned transverse to a longitudinal axis of said board (fig. 1).

Claims 6, 25, 39, further including means adapted for receiving at least one kind of head immobilization device (col. 3 lines 29-31).

Claim 7, 26, wherein a tail end 25 of said board is tapered downwardly 28 (fig. 4)(col. 5 lines 45-48).

Claim 10, 29, 42, further including a plurality of side hand holds respectively located longitudinally along the respective sides of said board (fig. 1).

Claim 11, 30, 43, wherein each of at least a pair of oppositely located side hand holds includes a clip-receiving pin located between opposed surfaces of said side hand holds, said pin being made of the same material as said spine board and molded integrally as to be part of the board itself (col. 3 lines 29-31).

Claim 12, 31, 44, wherein said board is characterized as free from metallic parts so that the board is X-ray translucent and/or radio translucent (col. 3 lines 8-10).

Claim 13, 32, 45, wherein said board is made from a thermoplastic material (col. 3 lines 8-10).

Claim 14, 33, 46, wherein an upper surface of said board has a cradle configuration to assist in locating said patient relative to the center of said board (fig. 5-6).

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Claim 21, Duncan discloses a spine board comprising:

a sealed unitary board structure defining a board structurally adapted to transport a patient and having at least two pairs of hand holds 22, said unitary board structure being hollow;

foam 16 (col. 4 lines 32-36) contained within the entire of said hollow of said unitary board structure, whereby said foam is separated from said the exterior of said unitary board structure, and further including a plurality of slots 21 through said board. With regards to the plurality of slots assisting in the submersion of the board it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Claim 35, Duncan discloses a spine board comprising:

a sealed unitary board structure defining a board structurally adapted to transport a patient and having at least two pairs of hand holds 22, said unitary board structure being hollow;

foam 16 (col. 4 lines 32-36) contained within the entire of said hollow of said unitary board structure, whereby said foam is separated from said the exterior of said unitary board structure;

wherein a tail end 25 of said board is tapered downwardly 28 (fig. 4)(col. 5 lines 45-48).

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Claims 1, 3-10, 12-14, 21, 23-29, 31-35, 37-42, 44-48, 50-55, 57-61, 63-70, and 72-74 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,950,627 to Bologovsky et al.

Claim 1, Bologovsky discloses a spine board comprising:

a sealed unitary board structure 12 defining a board structurally adapted to transport a patient and having at least two pairs of hand holds (22 A-F), said unitary board structure being hollow;

foam contained within the entire of said hollow of said unitary board structure, whereby said foam is separated from said the exterior of said unitary board structure (col. 7 lines 49-52).

Claims 3, 23, 37, 50, and 63, wherein said spine board includes a plurality of hand holds (22 A-F) for lifting said patient by emergency personnel.

Claims 4, 51, and 64, further including a plurality of slots 21 through said board. With regards to the plurality of slots assisting in the submersion of the board it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Claims 5, 24, 38, 52, and 65, wherein said pair of hand holds is head end hand holds (22A) positioned transverse to a longitudinal axis of said board (fig. 1).

Claims 6, 25, 39, 53, and 66, further including means adapted for receiving at least one kind of head immobilization device (col. 4-5 lines 64-68 & 1-17).

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Claims 7, 26, and 67, wherein a tail end (12D) of said board is tapered downwardly (fig. 2).

Claims 8, 27, 40, and 68, wherein a body of said board defines at least a rib 20 on the lower surface of the board and extending downwardly there from, to act as a rest for the board when the board is placed on a surface.

Claims 9, 28, 41, 54, and 69, wherein said rib extends downwardly a distance greater than the distance that the distal end is remotely vertically located from said bottom surface .

Claims 10, 29, 42, 55, and 70, further including a plurality of side hand holds (22B-C) respectively located longitudinally along the respective sides of said board (fig. 1).

Claims 12, 31, 44, 57, and 72, wherein said board is characterized as free from metallic parts so that the board is X-ray translucent and/or radio translucent (col. 3 lines 8-10).

Claims 13, 32, 45, 58, and 73, wherein said board is made from a thermoplastic material, such as polyethylene.

Claims 14, 33, 46, 59, and 74, wherein an upper surface of said board has a cradle configuration to assist in locating said patient relative to the center of said board (fig. 5-6).

Claims 34, 47, and 60, further comprising a coating 26 to inhibit scratching of said tail end.

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Claim 21, Bologovsky discloses a spine board comprising:

a sealed unitary board structure 12 defining a board structurally adapted to transport a patient and having at least two pairs of hand holds (22 A-F), said unitary board structure being hollow;

foam contained within the entire of said hollow of said unitary board structure, whereby said foam is separated from said the exterior of said unitary board

structure (col. 7 lines 49-52) and further including a plurality of slots 21 through said board. With regards to the plurality of slots assisting in the submersion of the board it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Claim 35, Bologovsky discloses a spine board comprising:

a sealed unitary board structure 12 defining a board structurally adapted to transport a patient and having at least two pairs of hand holds (22 A-F), said unitary board structure being hollow;

foam contained within the entire of said hollow of said unitary board structure, whereby said foam is separated from said the exterior of said unitary board structure (col. 7 lines 49-52),

wherein a tail end (12D) of said board is tapered downwardly (fig. 2).

Claim 48, Bologovsky discloses a spine board comprising:



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a sealed unitary board structure 12 defining a board structurally adapted to transport a patient and having at least two pairs of hand holds (22 A-F), said unitary board structure being hollow;

foam contained within the entire of said hollow of said unitary board structure, whereby said foam is separated from said the exterior of said unitary board

structure (col. 7 lines 49-52), wherein a body of said board defines at least a rib 20 on the lower surface of the board and extending downwardly there from, to act as a rest for the board when the board is placed on a surface.

Claim 61, Bologovsky discloses a spine board comprising:

a sealed unitary board structure 12 defining a board structurally adapted to transport a patient and having at least two pairs of hand holds (22 A-F), said unitary board structure being hollow;

foam contained within the entire of said hollow of said unitary board structure, whereby said foam is separated from said the exterior of said unitary board

structure (col. 7 lines 49-52),

further comprising a coating 26 to inhibit scratching of said tail end.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 30, 43, 56, and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,950,627 to Bologovsky et al.

Claims 11, 30, 43, 56, 71 Bologovsky discloses all of the Applicant's claimed limitations except for having the clip receiving pin 40 being made of the material as said spine board. It would have been an obvious to have the speed clips made from the same material as the board, since Applicant has not disclosed that the material selection is critical and it would appear that the material taught by Bologovsky would perform equally well.

Claims 2, 22, 36, 49, 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,950,627 to Bologovsky et al. in view of U.S. Pat. No. 5,765,243 to Duncan.

Claims 2, 22, 36, 49, and 62, Bologovsky discloses all of the Applicant's claimed limitations except for the board having a first and second molded portions. Duncan discloses a board comprising a first molded portion 10 and a second molded portion 12 secured to said first molded portion to define said board. It would have been obvious to one having ordinary skill in the art at the time of the invention to have a first and second

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molded portions as taught by Duncan in order to slip or fit the board beneath and injured person.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,950,627 to Bologovsky et al. in view of U.S. Pat. No. 5,507,044 to Williamson et al.

Claim 15, Bologovsky discloses all of the Applicant's claimed limitations except for having the handholds with a textured surface. Williamson discloses hand holds having a textured surface (col. 5 lines 45-49). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a textured surface as taught by Williamson in order to permit more secure gripping of each hand hold.

#### ***Allowable Subject Matter***

Claims 16-20 are allowed.

#### ***Response to Arguments***

Applicant's arguments filed 7/14/04 have been fully considered but they are not persuasive.

Contrary to the Applicant's arguments Duncan does disclose the tail end 25 of the board tapered downwardly 28 (fig. 4)(col. 5 lines 45-48) as recited in the claim. With regards to the Applicant's arguments to claim 1, Bologovsky does disclose preventing the formation of open pockets where bacteria can become established and treating the board with an anti-microbial agent (col. 2-3 lines 68 & 1-5) thus preventing passage of pathogens between the exterior and interior of the board.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fredrick C Conley whose telephone number is 308-7468. The examiner can normally be reached on m-th m-fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC  


  
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ART UNIT 358